

# Official Rationale for Writ of Constitutional Review

## 053-0002

### **Alleged Violations**

ASU-SGA Student Bill of Rights Article I, Letter A

Findings: In Violation

ASU-SGA Student Bill of Rights Article I, Letter C

Findings: In Violation

ASU-SGA Student Bill of Rights Article I, Letter D

Findings: In Violation

ASU-SGA Constitution Preamble

Findings: In Violation

ASU-SGA Constitution Article II, Section 4:

Findings: In Violation

### **For All Violations:**

*Salience:* Injury Caused

*Intent:* Intentional

It is possible that previous sessions of the ASU-SGA exceeded their authority to regulate speech during elections in an intentional but good-faith attempt to cultivate a safe elections environment.

### **Sanctions Mandated by the Committee:**

1. No ASU-SGA institution, including the Elections Court and Elections Administration Board, may take action against speech protected by the first amendment of the United States Constitution. This does not include any speech inciting illegal activity, false statements such as defamation and slander, or any other violations of state and federal law.
2. Any review of campaign materials prior to distribution must be content-neutral. No element of the ASU-SGA may, in any way, censor material prior to its distribution unless said content clearly violates state law, federal law, or applicable policies of Appalachian State University.
3. Candidates may not be held responsible for the expression of others, unless such expression is made by members of their campaign staff acting in their designated capacities. A “campaign” and/or “campaign staff” shall not include independently-acting/communicating parties. Parties actively having materials approved by a campaign or working at the explicit request of a campaign are not independent actors.
4. No member of the student body shall abridge the first amendment rights of others; no exception to this sanction should be made for candidates running to hold an ASU-SGA office. Candidates participating in ASU-SGA elections are acting in a capacity as “student candidates” and therefore are still entitled to the privileges granted to them by the Preamble of ASU-SGA Constitution. In accordance with the above sanctions, the speech of student-candidates cannot be restricted except for the legally-based exceptions identified above.

5. Any provision within the Elections Bylaws that violates or should violate one or more of the above requirements is hereby declared null and void. This explicitly includes the overbroad “Malicious Campaigning” clause of Article III of the ASU-SGA Elections Bylaws and explicitly does not include restrictions on campaign funding identified in Article III of the Elections Bylaws.

The Rules Committee found the violations to have been committed intentionally. This conclusion was reached due to a belief that the violating clauses were in place in order to strictly censor candidates and prevent forms of speech that the EAB may find distasteful or unappealing to members of the board. The committee found the saliency of the violations to be “injury caused.” While there is no proof of these bylaws negatively impacting a candidate’s chances of winning a campaign or impeding the ability of the ASU-SGA to act in its full capacity, there does exist proof of these bylaws hurting campaigns through Elections Court sanctions.

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I certify that this WCR rationale document is correct and complete to the best of my knowledge.

Connor Ryan Schlaline

*Chairman of the ASU-SGA Senate Committee on Rules for the 53rd Session of the ASU-SGA*